रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—20 REGISTERED NO. DL—(N)04/0007/2003—20

भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-अ.-24032020-218895
CG-DL-E-24032020-218895

असाधारण
EXTRAORDINARY
भाग II — खण्ड 2
PART II — Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 14] नई दिल्ली, सोमवार, मार्च 23, 2020/चैत्र 3, 1941 (शक)
No. 14] NEW DELHI, MONDAY, MARCH 23, 2020/CHAITRA 3, 1941 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 23rd March, 2020:—

I

BILL NO. XXII OF 2020

A Bill to regulate pesticides, including their manufacture, import, packaging, labelling, pricing, storage, advertisement, sale, transport, distribution, use and disposal in order to ensure availability of safe and effective pesticides, and to strive to minimise risk to human beings, animals, living organisms other than pests, and the environment with an endeavour to promote pesticides that are biological and based on traditional knowledge and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Pesticide Management Act, 2020. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Declaration of expediency of Union control.

2. It is hereby declared that it is expedient in the public interest that Union should take under its control the regulation of pesticide industry to the extent hereinafter provided.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "animal" means animal useful to human beings and includes honey bees and other beneficial insects, earthworms, fish and fowl and such kinds of wild life as the Central Government may, by notification, specify, being kinds which in its opinion, it is desirable to protect or preserve;

(*b*) "banned", in relation to a molecule or formulation of a pesticide, means the prohibition of its manufacture, import, sale, distribution and use in order to protect human health, other living organisms or the environment;

(*c*) "batch" means an identifiable quantity of a technical grade pesticide or its formulation which has been manufactured and processed under uniform conditions in a single lot;

(*d*) "Board" means the Central Pesticides Board constituted under section 4;

(*e*) "Central Pesticides Laboratory" means the Central Pesticides Laboratory established under section 37;

(*f*) "certificate of registration" means a certificate of registration of a pesticide granted under sections 18, 19 and 20;

(*g*) "dispose" means to carry out any process that neutralises, destroys or isolates pesticides and their packages, including physico-chemical treatment, biological treatment or incineration, but does not include a process that leads to the reuse, recycling, recovery or utilisation of pesticides, including through co-processing and the terms "disposal" and "disposed" shall be construed accordingly;

(*h*) "distribution" means the process by which pesticides are supplied through trade channels to domestic or international markets;

(*i*) "environment" includes water, air and land and the interrelationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organisms and property;

(*j*) "export" means taking out to any place outside those territories to which this Act extends from a place inside the territories;

(*k*) "formulation" means a preparation containing one or more technical grade pesticides in specified proportions along with other ingredients in specified proportions;

(*l*) "import" means bringing into any place within the territories to which this Act extends from a place outside those territories;

(*m*) "label" means any written, printed or graphical representation on or attached to the immediate package, or on any covering in which the package is placed or packed;

(*n*) "leaflet" means any written, printed or graphical representation accompanying the package;

(*o*) "Licensing Officer" means a Licensing Officer appointed under section 27;

(*p*) "manufacture" includes any process or part of a process for making, altering, finishing, packing, labelling, repacking or relabeling any pesticide or formulation with a view to its ultimate sale, distribution or use;

(*q*) "notification" means a notification published in the Official Gazette;

(*r*) "ordinary use pesticide" means any pesticide intended for use only in households, offices and similar premises, but excludes pesticides intended for use in agriculture, industry, pest control operations, public health or storage;

(*s*) "other ingredients" means inert materials, dispersing agents, emulsifying agents, wetting agents, surfactants, stabilisers, preservatives, perfumes, colouring agents or other substances which are biologically inactive and are added in a specified proportion to a technical grade pesticide to make a formulation;

(*t*) "package" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper, or other things in which a pesticide is placed or packed;

(*u*) "person" includes any individual, company, association, or body of individuals, whether incorporated or not;

(*v*) "pest" means any species, strain or biotype of plant, animal or pathogenic agent that is unwanted or injurious to plants, plant products, human beings, animals, other living creatures and the environment and includes vectors of parasites or pathogens of human and animal diseases and vermin as defined in the Wild Life (Protection) Act, 1972;

53 of 1972.

(*w*) "pesticidal property" means such property of a substance that have the same chemical or biological action as a pesticide;

(*x*) "pesticide" means any substance or mixture of substances, including a formulation of chemical or biological origin intended for preventing, destroying, attracting, repelling, mitigating or controlling any pest in agriculture, industry, pest control operations, public health, storage or for ordinary use, and includes any substance intended for use as a plant growth regulator, defoliant, desiccant, fruit thinning agent, or sprouting inhibitor and any substance applied to crops either before or after harvest to protect them from deterioration during storage and transport;

(*y*) "Pesticide Analyst" means a Pesticide Analyst appointed under section 39;

(*z*) "pest control operator" means any person other than a worker conducting pest control operations for commercial consideration, and includes the person, firm, company or organisation under whose control such person is operating;

(*za*) "Pesticide Inspector" means a Pesticide Inspector appointed under section 39;

(*zb*) "Pesticide Testing Laboratory" means a Pesticide Testing Laboratory established under section 38;

(*zc*) "poisoning, in relation to human beings" means the occurrence of damage or disturbance of bodily structure or function by occupational exposure to a pesticide, leading to illness, injury or death;

(*zd*) "premises" means any land, shop, stall or place, where any pesticide is manufactured, distributed, sold, exhibited for sale, stored, stocked, transported, used or disposed;

(*ze*) "prescribed" means prescribed by rules made under this Act;

(*zf*) "Registration Committee" means the Registration Committee constituted under section 9;

(*zg*) "risk" means the probability and severity of an adverse health or environmental effect occurring as a function of the inherent property of a pesticide and the likelihood and the extent of exposure to a pesticide;

(*zh*) "sale" means the sale of any pesticide whether for cash or on credit and whether by wholesale or retail, as a stand-alone product or as part of any other

product, and includes an agreement for sale, an offer for sale, exposing for sale or having in possession for sale any pesticide, or an attempt to sell or provide services related to the use of any pesticide;

(*zi*) "State Government", in relation to a Union territory, means the administrator of that Union territory appointed by the President under article 239 of the Constitution;

(*zj*) "stock" means the storage of pesticides on premises in the course of commercial activity involving such pesticides;

(*zk*)"technical grade pesticide" means the purest form of a pesticide produced for commercial use; and

(*zl*) "worker" means any person, including an apprentice, employed to do any manual or unskilled work that involves exposure to pesticides or packages for hire or reward, whether the terms of employment be express or implied.

CHAPTER II

CENTRAL PESTICIDES BOARD AND REGISTRATION COMMITTEE

Constitution of Central Pesticides Board.

4. The Central Government shall, within a period of six months from the date of commencement of this Act, constitute a Board to be called the Central Pesticides Board to carry out the functions assigned to it by or under this Act.

Composition, terms and conditions of Members of Board.

5. (*1*) The Board shall consist of the following Members, namely:—

(*a*) a person having experience in the field of agriculture or chemicals or health or environment to be nominated by the Central Government—Chairperson;

(*b*) a designated representative not below the rank of Joint Director of each of the following authorities—*ex-officio* Member;—

(*i*) the Directorate of Plant Protection, Quarantine and Storage;

(*ii*) Drugs Controller General of India;

(*iii*) Director General, Indian Council of Agriculture Research;

(*iv*) Director General, Bureau of Indian Standards;

(*v*) Director General, Indian Council of Medical Research;

(*vi*) Director General, Council of Scientific and Industrial Research;

(*vii*) the Storage and Research (Technical) Division, Department of Food and Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution;

(*viii*) Directorate General, Factory Advice Service and Labour Institutes;

(*ix*) the Zoological Survey of India;

(*x*) the Food Safety and Standards Authority of India (FSSAI);

(*xi*) the Department of Animal Husbandry, Dairying and Fisheries;

(*xii*) the Department of Biotechnology, Ministry of Science and Technology;

(*xiii*) the Central Pesticides Laboratory;

(*xiv*) the Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers;

(*xv*) the National Institute of Occupational Health;

(*xvi*) the Ministry of Environment, Forest and Climate Change;

(*xvii*) the Central Pollution Control Board;

(*xviii*) the Central Ground Water Board;

(*xix*) the Ministry of Commerce and Industry;

(*xx*) the Ministry of Shipping and Transport;

(*xxi*) the Ministry of Railways;

(*c*) five Directors of Agriculture or Horticulture from State Governments, representing the five agro-climatic zones to be nominated by the Central Government— Members;

(*d*) four experts each from the fields of chemistry, ecology, medical toxicology and pharmacology to be nominated by the Central Government—Members;

(*e*) two persons to represent farmers of whom at least one shall be female, to be nominated by the Central Government—Members; and

(*f*) an officer from the Directorate of Plant Protection, Quarantine and Storage, to be nominated by the Central Government—*ex officio* Member-Secretary.

(*2*) The Members nominated under clauses (*c*), (*d*) and (*e*) of sub-section (*1*), shall hold office for such term and such conditions as may be prescribed by the Central Government.

Meetings of Board.

6. (*1*) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transactions of business at its meetings, including the quorum at such meetings, as it may regulate in this behalf with the approval of the Central Government.

(*2*) The Central Government may require the Board to convene a meeting when its advice is required on a matter of immediate concern.

(*3*) All questions which come up before any meeting of the Board shall be decided by a majority of votes by the Members present and voting, and in the event of equality of votes, the Chairperson or in his absence, the presiding Member shall have a casting vote.

Constitution of committees and engagement of experts.

7. (*1*) The Board may constitute such committees as it considers necessary and may appoint persons who are not Members of the Board to such committees.

(*2*) The person appointed under sub-section (*1*) may exercise such powers and perform such duties as may be delegated to them by the Board, subject to any conditions as the Board may impose.

(*3*) The Members of such committees shall receive such allowances as may be prescribed by the Central Government.

(*4*) The Central Government, at the request of the Board, may provide such consultants, experts, advisors or other persons whose services may be required for the efficient discharge of its functions under this Act on such terms and conditions and such allowances as may be prescribed by the Central Government.

Powers and functions of Board.

8. (*1*) The powers and functions of the Board shall include the following:—

(*a*) to advise the Central Government and the State Governments on scientific and technical matters arising out of the administration of the Act and on any questions that may be referred to it by the Central Government and the State Governments;

(*b*) to advise the Central Government in making—

(*i*) criteria for good manufacturing practices including processes for pesticide manufacturers;

(*ii*) best practices for pest control operators;

(*iii*) the procedure for the recall of pesticides;

(*iv*) the criteria for the disposal of pesticides and packages in an environmentally sound manner;

(*v*) standards to be observed by the Central Pesticides Laboratory and Pesticides Testing Laboratories;

(*vi*) standards for training and working conditions for workers;

(*vii*) standards for the advertisement of pesticides in all forms of media;

(*viii*) such other matter as may be prescribed by the Central Government;

(*c*) to frame model protocols to deal with occurrences of poisoning including the specification of standard operating procedures for medical facilities;

(*d*) to research on:—

(*i*) the development and availability of safer alternatives to existing pesticides, including agro-ecological practices;

(*ii*) the safety, efficacy and toxicity of registered pesticides;

(*iii*) best practices in the field of pesticide in other countries which may be adopted for parts or the whole of India;

(*e*) to monitor pesticide residues;

(*f*) to monitor global developments relating to pesticide;

(*g*) to review the status of applications for the registration of pesticides; and

(*h*) to carry out any other function as may be prescribed by the Central Government.

(*2*) The Board may, subject to the previous approval of the Central Government, make bye-laws for the purpose of regulating its own procedure and the procedure of any committee thereof and the conduct of all business to be transacted by it or such committee.

Constitution, composition and term of office of Member of Registration Committee.

9. (*1*) The Central Government shall, within a period of six months from the date of commencement of this Act, constitute a Committee to be called the Registration Committee to carry out the functions assigned to it by or under this Act.

(*2*) The Registration Committee shall consist of the following, namely: —

(*a*) a person to be nominated by the Central Government who shall have expertise in the field of agriculture or pesticides and who shall possess such qualifications and experience as may be prescribed by the Central Government—Chairperson ;

(*b*) the Drugs Controller General of India—*ex officio*—Member;

(*c*) designated representative of the Indian Council of Agricultural Research—*ex-officio*—Member;

(*d*) a designated representative of the Hazardous Substances Management Division, Ministry of Environment, Forest and Climate Change—*ex officio*—Member;

(*e*) a designated representative of the Department of Chemicals and Petro Chemicals, Ministry of Chemicals and Fertilizers—*ex officio*—Member;

(*f*) designated representative of any national public institution of repute conducting research in toxicology—*ex officio*—Member;

(*g*) the Plant Protection Advisor, Government of India—*ex officio*—Member;

(*h*) the Member-Secretary of the Board—Member-Secretary.

(*3*) The Chairperson of the Registration Committee shall hold office for such term as may be prescribed by the Central Government.

(*4*) The Registration Committee may also co-opt such number of experts and for such purpose or period as it may deem fit, but any expert so co-opted shall have no right to vote.

Restrictions on employment of Chairperson and Members of Board and Registration Committee.

10. The Chairperson and Member of the Board or the Registration Committee, shall not, for a period of three years from the date on which he ceases to be a Chairperson or a Member of the Board or the Registration Committee, as the case may be, without the previous approval of the Central Government, accept employment in, enter into a contract of service with, be connected with the management of or accept an appointment to the board of directors of an entity that is conducting business in any of the areas regarding which the Board or the Registration Committee conducts research and makes recommendations or advises the Central Government and the State Governments.

Vacancies, etc., not to invalidate proceedings of Board and Registration Committee.

11. No act or proceeding of the Board or Registration Committee shall be invalid only by reason of any vacancy in, or defect in the constitution of the Board or Registration Committee, or any defect in the appointment of a person as the Chairperson and Member of the Board or Registration Committee.

Constitution of sub-committees and co-opting of experts.

12. (*1*) The Registration Committee may constitute one or more sub-committees to perform such duties as may be delegated to them by the committee, subject to any conditions that the committee may specify and the Registration Committee may also co-opt such number of experts and for such purpose or period as it may consider necessary.

(2) Any decision taken by such sub-committee must be submitted to the Registration Committee for ratification.

Meetings of Registration Committee.

13. The Registration Committee shall regulate its own procedure and the conduct of business to be transacted by it.

Powers and functions of Registration Committee.

14. The Registration Committee shall exercise the following powers and functions, in such manner as may be prescribed by the Central Government —

(*a*) make decisions regarding the application received by it for the registration of pesticides;

(*b*) specify conditions subject to which a certificate of registration is granted;

(*c*) periodically review the safety and efficacy of registered pesticides and amend or cancel certificates of registration;

(*d*) review the registration of pesticides on behalf of which a reference is made, or that are prohibited by the Central Government or the State Government under section 35;

(*e*) maintain a national register of pesticides;

(*f*) notify substances having pesticidal properties; and

(*g*) such other functions as may be prescribed by the Central Government.

Secretariat for Central Pesticides Board and Registration Committee.

15. (*1*) The Central Government shall provide the Board and the Registration Committee with such technical and other staff as it considers necessary.

(*2*) The terms and conditions of service of the technical and other staff shall be such as may be prescribed by the Central Government.

CHAPTER III

REGISTRATION OF PESTICIDES

Requirement to register pesticides.

16. (*1*) Any person desiring to import or manufacture any pesticide for ordinary use, use in agriculture, storage, industry, pest control operations or public health, shall make an application to the Registration Committee for a certificate of registration.

(2) If a person desires to import or manufacture more than one pesticide, a separate application shall be made for each pesticide.

Application for registration.

17. (*1*) An application for a certificate of registration shall be in such form and shall contain such information as may be prescribed by the Central Government:

Provided that different forms and information may be prescribed by the Central Government depending on whether the pesticide is proposed to be imported or manufactured, whether it is proposed to be used in India or outside, and the use for which the pesticide is intended:

Provided further that the procedure, form and information may be prescribed by the Central Government for promoting pesticides which are biological and based on traditional knowledge and for encouraging indigenous manufacturing.

(*2*) If the Registration Committee is of the opinion that the information submitted is not sufficient to enable it to make a decision about registration, it shall have the power to require the applicant to submit any additional information or to conduct any additional tests as it deems fit.

(*3*) The application shall be accompanied by such fees as may be prescribed by the Central Government.

Decision regarding registration.

18. (*1*) The Registration Committee shall scrutinise an application for a certificate of registration in all respects.

(*2*) The Registration Committee may conduct an independent enquiry to verify the information submitted by the applicant which may include:—

(*a*) the conduct of tests in a manner determined by it,

(*b*) consultation with such experts as it deems fit.

(*3*) The Registration Committee shall maintain an online database of all applications for registration received by it.

(*4*) While making a decision regarding the registration of a pesticide, the Registration Committee shall evaluate the information submitted by the applicant under section 17 and shall also be guided by factors including safety, efficacy, necessity, end-use of the pesticide, risk involved and the availability of safer alternatives to the pesticide.

(*5*) The Registration Committee shall not register a pesticide if:—

(*a*) the information submitted by the applicant for registration is false or misleading in any material particular;

(*b*) it is satisfied that the pesticide does not meet the claims of safety or efficacy submitted by the applicant;

(*c*) where applicable, maximum residue limits of the pesticide on crops and commodities have not been specified under the Food Safety and Standards Act, 2006. 34 of 2006.

(*6*) The Registration Committee may refuse to register a pesticide if there is scientific uncertainty regarding its risks and benefits and there are threats of serious and irreversible damage to human health, other living organisms or the environment.

(*7*) The Registration Committee shall record in writing its reasons for the grant or refusal of registration to a pesticide and make them available in the public domain.

(*8*) When the Registration Committee decides to register a pesticide, it shall allot a registration number to the pesticide on such conditions as it deems fit and grant a certificate of registration to the applicant, in such manner as may be prescribed by the Central Government.

Grant of certificate of registration to generic pesticides.

19. (*1*) Where the Registration Committee has granted a certificate of registration for a pesticide, any other person, not being the holder of the original certificate of registration granted under section 18, and desiring to import or manufacture the same pesticide shall make an application to the Committee for a certificate of registration.

(*2*) An application under sub-section (*1*) shall be in such form, contains such information and accompanied by such fees as may be prescribed by the Central Government.

(*3*) If the Registration Committee is satisfied that the pesticide in respect of which the original certificate of registration was granted, has not been banned, it may allot a registration number and grant a certificate of registration to the applicant, stating that such pesticide is a generic pesticide in respect of which the original certificate of registration has been granted.

(*4*) The certificate of registration granted under sub-section (*3*) shall be subject to the conditions specified at the time of grant of the original certificate of registration in respect of that pesticide as well as any additional conditions that the Registration Committee may deem fit in respect of the applicant.

Provisional certificate of registration pending observation.

20. (*1*) Any person desiring to import or manufacture a pesticide that shall be introduced in India for the first time shall make an application to the Registration Committee containing such information, in such form and accompanied by such fees as may be prescribed by the Central Government.

(*2*) The Registration Committee may grant a provisional certificate of registration for a period not exceeding three years, pending observation during which the applicant shall generate the information necessary for the grant of a certificate of registration under section 18.

(*3*) During the period for which a pesticide has been granted provisional registration, the distribution or sale of such pesticide shall not be permitted, except in the event of an exigency as decided by the Central Government on the recommendation of the Registration Committee.

(*4*) On the expiry of the period of provisional registration or at any time before such period when the information referred to in sub-section (*2*) has been generated, the person to whom it has been granted shall make an application for a certificate of registration under section 17 if he desires to import or manufacture the pesticide.

Amendment of certificate of registration.

21. (*1*) The holder of a certificate of registration, desiring to amend the certificate or any condition specified by the Registration Committee while granting the certificate, shall make an application to the Committee in such form and accompanied by such fees as may be prescribed by the Central Government.

(*2*) While considering an application made under sub-section (*1*), the Registration Committee shall undertake the risk assessment as it deems appropriate, on the basis of which it may approve or reject the amendment:

Provided that where the amendment may affect the safety or efficacy of the pesticide, including but not limited to a change in the chemical composition of the pesticide or the use for which it was approved at the time of registration, the application for amendment shall be treated as an application for registration, to which the provisions of sections 18, 19 and 20 shall apply.

(*3*) The amendment of a certificate of registration of a pesticide granted under section 18 shall have such effect on certificates of registration granted under section 19 in such manner as may be prescribed by the Central Government.

Review, suspension and cancellation of registration and ban on pesticides.

22. (*1*) The holder of a certificate of registration shall intimate the Registration Committee if there is any change in the information submitted to the Committee after the grant of registration, including information related to the safety or efficacy of the pesticide or the status of its registration, restriction or ban in other countries.

(*2*) The Registration Committee may, at any time, review:—

(*a*) a certificate of registration granted under section 18 or section 19;

(*b*) the molecule or formulation of a pesticide in respect of which registration has been granted.

(*3*) A review may be initiated by the Registration Committee:—

(*a*) on its own;

(*b*) on the basis of information received by it under sub-section (*1*) or otherwise;

(*c*) on a reference made in this behalf by the Central Government or the State Government under sub-section (*1*) of section 35; or

(*d*) subsequent to the prohibition of a pesticide by the Central Government or the State Government under sub-section (*2*) of section 35.

(*4*) While conducting a review, the Registration Committee shall have the power to:—

(*a*) conduct tests in a manner determined by it;

(*b*) consult with such experts as it deems fit; or

(*c*) require the concerned holder or holders of the certificate of registration, as the case may be, to submit information or conduct tests.

(*5*) While conducting a review, the Registration Committee shall give an opportunity of being heard to the holder of the certificate of registration, and where the review is conducted on the basis of prohibition made under sub-section (*2*) of section 35, it shall consult the Central Government or the State Government, as the case may be.

(*6*) After reviewing the certificate of registration under clause (*a*) of sub-section (*2*), the Registration Committee may suspend such certificate if it is satisfied that there are violations of conditions specified in the certificate of registration or provisions of this Act or the rules made thereunder, and it shall direct the holder of such certificate to comply and rectify those conditions within such period as may be prescribed by the Central Government.

(*7*) If the holder of a certificate of registration, to whom directions have been issued under sub-section (*6*), fails to comply with the direction within the period mentioned in sub-section (*6*), the certificate of registration shall be cancelled on the expiry of such period.

(*8*) The Registration Committee may cancel the certificate of registration, if it is satisfied that the information submitted at the time of application for registration was false or misleading in any material particular.

(*9*) A certificate of registration shall be cancelled:—

(*a*) where an application for registration was made to manufacture the pesticide, if the holder of the certificate of registration fails to obtain a manufacturing licence within three years of being granted the certificate; or

(*b*) where an application for registration was made to import the pesticide, if the holder of the certificate of registration fails to obtain a manufacturing licence or a licence to distribute, sell or stock the pesticide within one year of being granted the certificate.

(*10*) The person whose certificate of registration has been cancelled under sub-section (*7*) or sub-section (*8*) or sub-section (*9*), shall not manufacture or import the pesticide in respect of which the certificate of registration was granted.

(*11*) After reviewing the molecule or formulation of a pesticide under clause (*b*) of sub-section (*2*), the Registration Committee:—

(*a*) may suspend all certificates of registration in respect of such molecule or formulation, whether granted under section 18 or section 19, if there is *prima facie* evidence that such molecule or formulation is likely to have an adverse impact on the

health of human beings, other living organisms or the environment or that the pesticide does not appear to have the efficacy which was claimed, and it shall require the holders of certificates in respect of that molecule or formulation to controvert this evidence within a specified period, failing which such certificates shall be cancelled;

(*b*) shall cancel all certificates of registration in respect of such molecule or formulation, whether granted under section 18 or section 19, if it is satisfied that the risk posed by the continued use of such molecule or formulation outweighs its benefits.

(*12*) When certificates of registration cancelled under sub-section (*11*), the molecule or formulation in respect of which these certificates were granted shall be deemed to be banned and notified.

(*13*) The decision taken by the Registration Committee under this section shall be recorded in writing and made available in the public domain.

46 of 1968.

Registration under the Insecticides Act, 1968.

23. (*1*) Insecticides registered under the Insecticides Act, 1968 shall be deemed to be registered under the provisions of this Act for a maximum period of two years from the date of commencement of this Act.

(*2*) Before the expiry of the period mentioned in sub-section (*1*), the holder of the certificate of registration of such insecticide shall make an application within a period of six months from the date of commencement of this Act for registration of the pesticide in such manner as may be prescribed by the Central Government.

Appeal from a decision of Registration Committee.

24. (*1*) A person whose application for a certificate of registration or its amendment or provisional registration has been refused or cancelled shall, within a period of thirty days from the date on which such decision is made available in the public domain, file an appeal to the Central Government:

Provided that if the Central Government is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time, it may entertain the appeal after the expiry of the period of thirty days.

(*2*) The appeal shall be in such form and shall be accompanied by such fees as may be prescribed by the Central Government.

(*3*) The Central Government shall, after giving an opportunity of being heard to the appellant, dispose of the appeal within a period of six months from the date of completion of pleadings.

Power of revision of Central Government.

25. The Central Government may, at any time, call for the record relating to any case in which the Registration Committee has given a decision under this Act and may pass any such order as it thinks fit:

Provided that no such order shall be passed after the expiry of one year from the date of the decision:

Provided further that the Central Government shall not pass any order prejudicial to any person unless that person has had a reasonable opportunity of being heard against the proposed order.

National register of pesticides.

26. The Registration Committee shall maintain a national register of pesticides in digital form containing such information as may be prescribed by the Central Government.

CHAPTER IV

GRANT OF LICENCES

Licensing Officer.

27. (*1*) The State Government may, by notification, appoint a person having such qualifications as may be prescribed by the State Government as Licensing Officer for the purposes of this Act.

(2) The Licensing Officer shall exercise such powers and functions as may be prescribed by the State Government.

Requirement to obtain licence.

28. (*1*) Subject to the provisions of this section, any person desiring to manufacture, distribute, exhibit for sale, sell or stock pesticides or undertake pest control operations, shall make an application in such form and with such fee as may be prescribed by the Central Government to the Licensing Officer for the grant of a licence.

(2) The person making an application under sub-section (*1*), shall possess such qualifications and meet such requirements relating to infrastructure, premises, storage and transport as may be prescribed by the Central Government.

(*3*) The Central Government may, by notification, specify the ordinary use pesticide in respect of which a licence to sell or stock under this Act is not required.

Grant of licence.

29. (*1*) On receipt of an application under section 28, the Licensing Officer may inspect such premises of the applicant as it deems fit.

(2) If the Licensing Officer, on the basis of the inspection and after evaluating the requirements under sub-section (2) of section 28, is satisfied that the conditions for the grant of a licence have been met, he may within a period of ninety days from the date of receipt of application under section 28, grant a licence to the applicant on such terms and conditions as may be specified therein.

(*3*) If the Licensing Officer is satisfied that applicant is not eligible for grant of licence under this Act, he may refuse to grant it and shall communicate the order of refusal to the applicant within a period of ninety days from the date of receipt of the application.

(*4*) Notwithstanding anything contained in this section, the State Government may, by notification, appoint a person having such qualifications as may be prescribed by the State Government for sale of extremely toxic or highly toxic category of pesticides by prescription.

Amendment and revocation of licence.

30. (*1*) The Licensing Officer may amend the terms of a licence or the conditions subject to which it was granted in such manner as may be prescribed by the State Government.

(2) If the Licensing Officer is satisfied, either on the basis of a reference made in this behalf or otherwise that,—

(*a*) the information on the basis of which the licence was granted was false or misleading in any material particular; or

(*b*) the holder of the licence has violated the conditions subject to which it was granted; or

(*c*) the holder of the licence has contravened any of the provisions of this Act or rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the Licensing Officer may, after giving the holder of the licence an opportunity of being heard, revoke the licence.

(*3*) The licence granted to any person under this Act shall be revoked if the person is convicted of an offence under this Act.

(*4*) A licence to manufacture, distribute, sell, exhibit for sale, stock or transport a pesticide or to undertake pest control operations shall be deemed to be revoked, if the certificate of registration of that pesticide is cancelled by the Registration Committee.

Licences under the Insecticides Act, 1968.

31. (*1*) Notwithstanding anything contained in the Insecticides Act, 1968, the licence granted under that Act, shall remain in force for the period specified at the time of grant of such licence under that Act. 46 of 1968.

(2) When a licence granted under the Insecticides Act, 1968 expires, an application for grant of fresh licence shall be made in accordance with the provisions of this Act. 46 of 1968.

Information on licences, sales and stock position.

32. (*1*) The Licensing Officer shall provide to the State Government a monthly report in such manner as may be prescribed by the Central Government relating to,—

(*a*) the grant or revocation of licence of person engaged in manufacture, distribution, stocking and sale of pesticides and of persons engaged in commercial pest control operations with the use of any pesticide;

(*b*) infrastructure facilities possessed by every pesticide manufacturer in the State;

(*c*) the monitoring of the quality of pesticides and the offences and punishment awarded under this Act.

(*2*) The State Government shall consolidate the report received under sub-section (*1*) and send it to the Central Government in every six months in such manner as may be prescribed by the Central Government.

(*3*) The person, who sells the pesticides, shall maintain the record of the sale of pesticide and submit the record to the Licencing Officer in such manner as may be prescribed by the Central Government.

(*4*) Every importer or manufacturer shall maintain a register recording the stock position of pesticides in such manner as may be prescribed by the Central Government.

(*5*) The Central Government or the State Government may at any time, by notice in writing, require any importer or manufacturer or any other person dealing in pesticides to furnish within the time specified in the notice, such information in respect of any pesticide or any batch thereof, including the particulars of all persons to whom it has been sold or distributed, as it may consider necessary.

Appeal from decision of Licensing Officer.

33. (*1*) Any person aggrieved by the decision of the Licensing Officer under section 29 or section 30 may, within a period of thirty days from the date on which the decision is communicated to him, prefer an appeal to the State Government in such form and accompanied by such fees as may be prescribed by the State Government:

Provided that the State Government may entertain an appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the State Government shall, after giving the appellant an opportunity of being heard, dispose of the appeal within a period of six months from the date of receipt of the appeal.

CHAPTER V

PESTICIDE SURVEILLANCE AND PROHIBITION IN THE PUBLIC INTEREST

Notification of poisoning and constitution of fund.

34. (*1*) The State Government shall, by notification, require any person or class of persons specified therein to report all occurrences of poisoning coming within his or their cognizance to such officer as may be specified in the notification.

(*2*) The State Government shall review and analyse occurrences of poisoning within its jurisdiction and submit a quarterly report to the Central Government.

(*3*) The State Government shall develop a plan to implement the model protocol framed by the Board to deal with occurrences of poisoning.

(*4*) The Central Government shall constitute a fund, to which shall be credited:—

(*a*) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf provide;

(*b*) penalties imposed by a court for the contravention of any of the provisions of this Act.

(*5*) The fund constituted under sub-section (*4*), shall be utilised to make ex gratia payment to persons or their legal heirs, as the case may be, who have suffered hurt, grievous hurt or have died in the course of poisoning.

(*6*) The quantum and procedure for ex gratia payment shall be such, as may be prescribed by the Central Government.

Prohibition on pesticides in public interest and ban on pesticides.

35. (*1*) The Central Government or State Government may, at any time, make a reference to the Registration Committee to review the safety or efficacy of a molecule or formulation of a pesticide in respect of which registration has been granted, and the provisions of section 22 shall apply *mutatis mutandis* to such review.

(*2*) If, on the basis of information received or otherwise, the Central Government or the State Government is of the opinion that it is expedient or necessary in the public interest to take immediate action on account of the use of any pesticide that is being distributed, manufactured, sold, stocked or used in agriculture, industry, storage, public health, ordinary use or pest control operations having had or being likely to have an adverse impact on, or posing a risk to human health, other living organisms or the environment or posing a barrier in international trade of agriculture commodities, the Central Government or the State Government, as the case may be, may, by notification, prohibit the distribution, sale or use of the pesticide or a specified batch in such area and for such period not exceeding one year.

(*3*) On publication of the notification under sub-section (*2*), the Registration Committee shall undertake a review of the molecule or formulation of such pesticide and the provisions of section 22 shall apply *mutatis mutandis* to such review.

(*4*) The Registration Committee shall complete its review within a period not exceeding one year from the date of the publication of the notification:

Provided that if the information available to the Committee is not sufficient to enable it to make a decision within one year, this period may be extended by a further period not exceeding one hundred and eighty days.

(*5*) The prohibition on the distribution, sale or use of the pesticide shall continue until the Registration Committee arrives at a decision in this behalf and the decision shall be available to public.

(*6*) If the Registration Committee is satisfied that the pesticide does not present a risk to the health of human beings, other living organisms or the environment, the prohibition on the distribution, sale or use of the pesticide shall be allowed from the date on which the decision of the Registration Committee is available to public.

(*7*) Notwithstanding anything contained in this section or in section 22, the Central Government may, by notification, ban a molecule or formulation of a pesticide in respect of which registration has been granted if—

(*a*) such ban is necessary to comply with the orders of a court of competent jurisdiction; or

(*b*) such molecule or formulation has been banned under any international treaty or agreement relating to pesticides to which India is a party.

(*8*) All certificates of registration granted in respect of a molecule or formulation of a pesticide banned under sub-section (*7*), shall be deemed to be cancelled from the date of publication of the notification.

State-level database on pesticides.

36. The State Government shall maintain a consolidated, State-level database on pesticides in digital form containing such information as may be prescribed by the Central Government.

CHAPTER VI

PESTICIDES LABORATORIES AND ANALYSIS OF PESTICIDES

Central Pesticides Laboratory.

37. (*1*) The Central Government may, by notification, establish a Central Pesticides Laboratory under the control of a Director to be appointed by the Central Government to carry out the functions entrusted to it by or under this Act.

(*2*) The Central Government may, by notification, designate such other laboratory as it deems fit to perform such functions of a Central Pesticides Laboratory, as may be specified in the notification.

Pesticides Testing Laboratories.

38. (*1*) The Central Government or the State Government may, by notification, establish a Pesticide Testing Laboratory under the control of Director to be appointed by the Central Government or the State Government, as the case may be, respectively to carry out the functions entrusted to it by or under this Act.

(*2*) The Central Government or the State Government may, by notification, direct that the functions of the Pesticide Testing Laboratory shall, to such extent as may be specified in the notification, be carried out by such other public institutions and thereupon, the functions of the Director of a Pesticides Testing Laboratory shall also be performed by the head of that institution.

(*3*) The Central Government or the State Government authorised by it in this behalf, may recognise private laboratories to carry out all or any of the functions of Pesticide Testing Laboratory, on compliance of the standards as may be prescribed by the Central Government.

(*4*) No private laboratory, any director or partner or officer of which has any financial or other interest in the manufacture, import, export, stocking, distribution or sale of any pesticide or in any pest control operations, shall be recognised under sub-section (*3*).

(*5*) Any recognition made under sub-section (*3*) may be withdrawn by the Central Government or the State Government for reasons to be recorded in writing and after giving the concerned laboratory an opportunity of being heard.

Pesticide Analyst and Pesticide Inspector.

39. (*1*) The Central Government or the State Government may, by notification, appoint such persons as it thinks fit, possessing such technical and other qualifications as may be prescribed by the Central Government or the State Government to be Pesticide Analyst for such areas and in respect of such pesticides or class of pesticides as may be specified in that notification:

Provided that no person who has any financial or other interest in the distribution, export, import, manufacture, exhibition for sale, sale or stocking of a pesticide or in any pest control operations, shall be appointed as a Pesticide Analyst.

(*2*) The Central Government or the State Government may, by notification, appoint such persons as it thinks fit, possessing such technical and other qualifications as may be prescribed by the Central Government or the State Government to be Pesticide Inspector for such areas as may be specified in that notification:

Provided that no person who has any financial or other interest in the distribution, export, import, manufacture, exhibition for sale, sale or stocking of a pesticide or in any pest control operations, shall be appointed as a Pesticide Inspector.

Powers of Pesticide Inspector.

40. (*1*) Subject to the provisions of section 41, a Pesticide Inspector shall have the power to:—

(*a*) enter and search, at all reasonable times and with such assistance, if any, as he considers necessary, any premises or in the case of a vehicle, stop and search a vehicle, in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed or for the purpose of satisfying himself that the provisions of this Act or the rules made thereunder or the conditions of any certificate of registration or licence issued are being complied with;

(*b*) require the production of, and to inspect, examine, make copies of, take extracts from or seize any record, register, document or other material object or stock of a pesticide found on any premises or kept by a dealer, distributor, manufacturer, importer, vendor, carrier of a pesticide, pest control operator or such other person, if he has reason to believe that all or any of them may furnish evidence of the commission of an offence under this Act or the rules made thereunder;

(*c*) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or the rules made thereunder are being complied with and for that purpose stop any vehicle;

(*d*) take samples of any pesticide which is being manufactured, sold, stocked, exhibited, offered for sale or distributed and send such samples for test and analysis to the Pesticide Analyst within forty-eight hours and in such manner as may be prescribed by the Central Government;

(*e*) require any person for the time being in charge of any premises to disclose to the Pesticide Inspector where the pesticide is being stored or manufactured, as the case may be;

(*f*) stop, through an order in writing and with the prior permission of any person whom the State Government has appointed an Executive Magistrate under the Code of Criminal Procedure, 1973, the distribution, sale, use or disposal of a pesticide which he has reason to believe is being distributed, sold, used or disposed in contravention of the provisions of this Act or the rules, made thereunder for a specified period not exceeding sixty days or till the receipt of the report of the Pesticide Analyst, whichever is earlier: 2 of 1974.

Provided that if the Pesticide Inspector has not been able to take prior permission due to emergent circumstances, he shall as soon as may be, but not later than forty-eight hours, inform the Executive Magistrate and take his orders to stop the sale, distribution, use or disposal of any pesticide;

(*g*) to exercise such other powers as may be necessary for carrying out the purposes of this Act or the rules made thereunder:

Provided that in a custom bound area any customs officer, who has reason to believe, through a written complaint or otherwise, that an offence relating to the import or export of pesticides has been or is likely to be committed in a custom bound area, shall bring to the notice of the Directorate of Plant Protection, Quarantine and Storage, to enable further action to be taken in this regard.

(*2*) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code. 2 of 1974.

(*3*) Any person against whom an order is proposed to be passed under clause (*f*) of sub-section (*1*), shall be served notice to show cause against it in such manner as may be prescribed by the Central Government.

(*4*) The Pesticide Inspector may requisition the services of any police officer or of any other officer or of both, as the case may be, for assistance related to any of the purposes specified in sub-section (*1*) and it shall be the duty of every such police officer or officer to comply with such requisition.

Procedure to be followed by Pesticide Inspector.

41. (*1*) Where a Pesticide Inspector takes any sample of a pesticide, he shall pay the person from whom such sample is taken, the price at which the pesticide is usually sold to the public, and may require a written acknowledgement to this effect.

(2) Where a Pesticide Inspector seizes any record, register, document or other material object or stock of a pesticide under section 40, he shall, as soon as may be, inform a Judicial Magistrate of such seizure, and take orders as to its custody.

(*3*) Where a Pesticide Inspector passes an order under clause (*f*) of sub-section (*1*) of section 40, he shall, if he seizes the stock of the pesticide, as soon as may be, inform a Judicial Magistrate and take his order as to the custody thereof.

(*4*) As soon as may be, the Pesticide Inspector may ascertain whether or not the pesticide contravenes any of the provisions of this Act or the rules made thereunder including through the testing and analysis of a sample of the pesticide in accordance with the provisions of this Act and the rules made under.

(*5*) If it is ascertained that the pesticide or its sale, distribution or use does not so contravene the provisions of this Act or the rules made thereunder, the Pesticide Inspector may revoke the order passed and if the stock of the pesticide has been seized, take such action as may be necessary for its return.

(*6*) Without prejudice to the institution of any prosecution, if the alleged contravention be such that the defect may be remedied by the possessor of the pesticide, on being satisfied that the defect has been so remedied, immediately revoke his order, and if the stock of the pesticide has been seized, the Pesticide Inspector may take such action as may be necessary for its return.

(*7*) Where a Pesticide Inspector seizes the stock of any pesticide under section 40, he shall tender a receipt therefor in such form as may be prescribed by the Central Government.

(*8*) Where a Pesticide Inspector takes any sample of a pesticide, he shall intimate the purpose of taking sample in writing to the person from whom the sample is taken in such manner as may be prescribed by the Central Government.

(*9*) The Pesticide Inspector shall draw the sample in the presence of the person from whom the sample is taken, unless he wilfully absents himself and shall divide the sample into such number of portions, of such weight or volume as may be prescribed by the Central Government.

(*10*) The portion of the sample shall be placed in such containers and sealed and marked by the Pesticide Inspector and by the person from whom the sample is taken, in such manner as may be prescribed by the Central Government.

(*11*) The Pesticide Inspector shall also put his seal on the package from which the sample is taken and indicate the quantity of the sample drawn for test or analysis.

(*12*) The Pesticide Inspector shall deal with the portions of the samples taken under this section in such manner as may be prescribed by the Central Government.

Report of Pesticide Analysts.

42. (*1*) The Pesticide Analyst to whom a sample of any pesticide has been submitted for test or analysis under clause (*d*) of sub-section (*1*) of section 40 shall, within a period of thirty days from the date of such submission, deliver a signed report to the Pesticide Inspector in quadruplicate in such manner as may be prescribed by the Central Government.

(*2*) On receipt of a report from the Pesticide Analyst, the Pesticide Inspector shall, within a period of ten days, deliver a copy of the report to:—

(*a*) the manufacturer of the pesticide;

(*b*) the person from whom the sample was taken, if such person is not the manufacturer;

(*c*) the Plant Protection Advisor, where the Pesticide Inspector is appointed by the Central Government or the Director of Agriculture of a State, where the Pesticide Inspector is appointed by the State Government; and

(*d*) retain the fourth copy with him.

(*3*) Any document purporting to be a report signed by the Pesticide Analyst shall be the conclusive evidence of the facts stated therein, unless the person from whom the sample was taken has within twenty-eight days of the receipt of a copy of the report informed in writing to the Pesticide Inspector or the court before which any proceedings in

respect of the sample are pending that he intends to adduce evidence in controversion of the report.

(*4*) Unless the sample has already been tested or analysed in a Central Pesticides Laboratory, where a person has, under sub-section (*3*) informed his intention of adducing evidence in controversion of the report of the Pesticide Analyst, the court may, of its own motion or in its discretion, at the request either of the complainant or of the accused, cause the sample of the pesticide produced before it to be sent for test or analysis to the said laboratory, which shall, within a period of thirty days, make the test or analysis and report in writing signed by, or under the authority of the Director of the Central Pesticides Laboratory, of the result thereof, and such report shall be conclusive evidence of the facts stated therein.

(*5*) The cost of a test or analysis conducted by the Central Pesticides Laboratory under sub-section (*4*), shall be paid by the complainant or the accused, as the court may direct.

(*6*) The remains of the samples so drawn and tested shall be disposed of within a period of three years from the date of drawing of the sample in such manner as may be prescribed by the Central Government or if applicable, within three years of the conclusion of proceedings before the court or as the court may direct, whichever is later.

CHAPTER VII

OFFENCES AND PUNISHMENT

Punishment for obstruction.

43. Whoever obstructs an officer in exercising of powers or discharging of duties under this Act or the rules made thereunder shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to fifty thousand rupees.

Punishment for violations of conditions of registration and licensing.

44. Whoever manufactures, imports, distributes, sells, exhibits for sale, stocks or transports a pesticide or undertake pest control operations in violation of the conditions of registration specified by the Registration Committee, or in violation of the conditions of the licence granted by the Licensing Officer shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.

Punishment for activities related to import and export of pesticides.

45. (*1*) Whoever—

(*a*) exports or imports any pesticide in contravention of provisions of this Act or of any international treaty, agreement or decision relating to pesticides;

(*b*) transports or causes to be transported within the country any pesticide which is registered in India only for the purpose of export, except directly between the manufacturing premises for which a licence of manufacture has been obtained and the port of exit;

(*c*) distributes or sells or causes to be used or undertakes pest control operations with a pesticide in India, where such pesticide has been registered for the purpose of export only,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which shall not be less than five lakh rupees but which may extend to twenty lakh rupees, or with both.

(*2*) Nothing in this section shall apply to the transportation of any expired pesticide for disposal in such manner as may be prescribed by the Central Government.

Punishment for activities involving unregistered and unlicenced pesticides.

46. Whoever manufactures, imports, distributes, sells, exhibits for sale, stocks or transports a pesticide or undertakes pest control operations,—

(*a*) with any pesticide that has not been registered in accordance with the provisions of this Act; or

(*b*) without a valid licence, where such licence is required by the provisions of this Act,

shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than ten lakh rupees but which may extend to forty lakh rupees, or with both.

Punishment for activities involving falsified pesticides.

47. (*1*) Whoever deliberately or fraudulently misrepresents the identity, composition or source of a pesticide in the course of its manufacture, import, distribution, sale, exhibition for sale, stocking or conduct of pest control operations, shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than ten lakh rupees but which may extend to forty lakh rupees, or with both.

(*2*) The prohibition under sub-section (*1*) includes, but is not limited to—

(*a*) deceptive claims about the efficacy of the pesticide or the use for which it has been registered;

(*b*) false claims about the chemical composition of the pesticide;

(*c*) using a false registration number on the label or package of the pesticide;

(*d*) printing a different label of the pesticide from the one approved by Registration Committee;

(*e*) altering the date of manufacture of a pesticide at the time of repacking or relabelling;

(*f*) impersonating another manufacturer or purporting to be a manufacturer which does not exist, through the label, package or otherwise.

Explanation.—For the purposes of this section:

(*a*) "identity" means the common name, trade name, batch number, date of manufacture, date of expiry, labelling, packaging, quantity or other documents that support the authenticity of a pesticide;

(*b*) "composition" means the chemical composition of the pesticide, including the biological active part of the pesticide and other ingredients approved by the Registration Committee at the time of registration; and

(*c*) "source" means the identification, including the name and address of the manufacturer, importer or the holder of the certificate of registration or licence of the pesticide, as the case may be.

Punishment for activities involving banned pesticides, etc.

48. Whoever—

(*a*) manufactures, imports, distributes, sells, exhibits for sale or stocks a pesticide or undertakes pest control operations with a pesticide, the certificate of registration of which has been suspended, cancelled or is deemed to be cancelled under section 22 or a pesticide, the molecule or formulation of which is deemed to be banned under section 22 or a pesticide that has been banned by the Central Government under sub-section (*7*) of section 35;

(*b*) distributes, sells or uses any pesticide that has been prohibited by the Central Government or the State Government under sub-section (*2*) of section 35 for the period for which the prohibition is in force,

shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than ten lakh rupees but which may extend to forty lakh rupees, or with both.

Punishment for causing hurt, grievous hurt or death.

49. Notwithstanding anything contained in this chapter, in contravention of any provisions of this Act:—

(*a*) whoever causes hurt to a person shall be punishable with fine which may extend to ten lakh rupees;

(*b*) whoever causes grievous hurt to a person shall be punishable with fine which shall not be less than five lakh rupees but may extend to fifteen lakh rupees; and

(*c*) whoever causes death to a person shall be punishable with imprisonment for a term which may extend to five years, or with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees, or with both.

Subsequent offences.

50. If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to not less than twice the fine that was imposed at the time of the first conviction, irrespective of the maximum fine provided for such offence in this Chapter:

Provided that where a person is convicted of an offence under section 44 for the third time or more, he shall also be liable to imprisonment for a term which may extend to one year.

Actions consequent to conviction.

51. (*1*) Where any person has been convicted of an offence under this Act, the stock of the batch of the pesticide in respect of which the contravention has been made shall be liable to be confiscated:

Provided that during the pendency of proceedings under this Act, if the court is satisfied, on an application made by the Pesticide Inspector or otherwise and after such inquiry as may be necessary, that a pesticide is being manufactured, imported, sold, stocked, distributed or used for pest control operations in contravention of the provisions of this Act, such pesticide shall be liable to confiscation.

(2) Where any person has been convicted of an offence under this Act, the court before which the conviction took place may cause the offender's name and place of residence, the offence and the penalty imposed, to be published in such newspapers or in such other manner as the court may direct.

Offences by companies.

52. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of, the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.

Cognizance and trial of offences.

53. (*1*) No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Central Government or the State Government or any person authorised in this behalf by the Central Government or the State Government, as the case may be, and the consent or refusal for the institution of prosecution shall be intimated in such time as may be prescribed by the Central Government.

(*2*) No court inferior to that of Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

Defences to prosecution under this Act.

54. (*1*) It shall be no defence in a prosecution under this Chapter to prove merely that—

(*a*) the accused was ignorant of—

(*i*) the nature or substance or quality of the pesticide in respect of which the offence was committed; or

(*ii*) the risk involved in the manufacture, sale or use of such pesticide; or

(*iii*) the circumstances of its import;

(*b*) a purchaser, having bought only for the purpose of test or analysis, was not prejudiced by the sale.

(*2*) A person, not being the importer or manufacturer of a pesticide or his agents shall not be liable for a contravention of any provision of this Act, if he proves that—

(*a*) he acquired the pesticide from a person having a valid licence to import, manufacture, sell, distribute or stock a pesticide, as the case may be;

(*b*) he did not know and could not with reasonable diligence, have ascertained that the pesticide received from the manufacturer or distributor is not of approved composition;

(*c*) the pesticide, while in his, possession, was properly stored and remained in the same state as when he acquired it.

CHAPTER VIII

MISCELLANEOUS

Regulation of substances having pesticidal properties and disposal of pesticide.

55. (*1*) Substances having pesticidal properties or any preparation containing any one or more of such substances notified under clause (*f*) of section 14 and are not intended for use as pesticides in India may be regulated in such manner as may be prescribed by the Central Government:

Provided that the Central Government may, on the recommendations of the Registration Committee and subject to such conditions as it may specify, by notification, exempt such substances from all or any of the provisions of this Act or the rules made thereunder.

(*2*) If a batch of pesticide has out lived its shelf-life or a batch has been declared to be falsified or has been banned or cancelled under section 22, it shall be segregated and disposed of within such period and in such manner as may be prescribed by the Central Government for safe of human beings, animals and environment.

Exemption.

56. (*1*) No person using pesticides in his own household, kitchen-garden or land under their own cultivation shall be liable to be prosecuted for any offence under this Act.

(*2*) The Central Government may, by notification, and subject to such conditions as may be specified, exempt from all or any of the provisions of this Act or the rules made thereunder any use of pesticides for educational, scientific or research purposes by organisations carrying out such activities.

Price of pesticides.

57. If the Central Government is of the opinion that it is necessary or expedient to secure the distribution and availability of pesticides at fair prices, it may constitute an authority to exercise such powers and perform such functions to regulate the price of pesticides in such manner as may be prescribed by the Central Government.

Power of Central Government to give directions.

58. (*1*) The Central Government may give such directions as it may deem necessary to a State Government or the Board for carrying out all or any of the provisions of the Act or the rules made thereunder and the State Government or the Board, as the case may be, shall comply with such directions.

(2) The Central Government may, for matters arising out of the administration of this Act, give such directions, in an exigency to the Registration Committee and the Committee shall comply with such directions.

Members of authorities and officers under this Act to be public servants.

59. The Members and officers of the Board, the Registration Committee, the Licensing Officers, the Pesticide Analysts, the Pesticide Inspectors or officers exercising the powers of the Pesticide Inspector shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

60. No prosecution, suit or other proceeding shall lie against the Government, or any officer of the Government, or the Board, the Registration Committee, or any committee of the Board or any sub-committee of the Registration Committee for anything done in good faith or intended to be done under this Act.

Compensation under the Consumer Protection Act, 1986.

61. A consumer of a pesticide may claim compensation from a manufacturer or distributor or stockist or retailer or pest control operator, as the case may be, under the provisions of the Consumer Protection Act, 1986 for any loss or injury in respect of pesticide. 68 of 1986.

Power of Central Government to make rules.

62. (*1*) The Central Government may, after consultation with the Board and subject to the condition of previous publication of notification, make rules for carrying out the provisions of this Act:

Provided that the consultation with the Board may be dispensed with if the Central Government is of the opinion that circumstances have arisen which render it necessary to make rules without such consultation, but in such a case, the Board shall be consulted within six months of the making of the rules and the Central Government shall take into consideration any suggestions which the Board may make in relation to the making of such rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the terms and conditions of the Members under sub-section (2) of section 5;

(*b*) the allowances of the Members of the Committee under sub-section (*3*) of section 7;

(*c*) the term and conditions and such allowances of consultant, experts, advisers or other persons under sub-section (*4*) of section 7;

(*d*) other matters under sub-clause (*viii*) of clause (*b*) of section 8;

(*e*) the other functions under clause (*h*) of sub-section (*1*) of section 8;

(*f*) the qualification and experience of the Chairperson of the Registration Committee under clause (*a*) of sub-section (2) of section 9;

(*g*) the terms of the office of the Chairperson of the committee under sub-section (*3*) of section 9;

(*h*) other functions of the Registration Committee under clause (*g*) of section 14;

(*i*) the terms and conditions of the technical and other staff under sub-section (2) of section 15;

(*j*) the form and information under sub-section (*1*) of section 17;

(*k*) the different form and information under the first proviso to sub-section (*1*) of section 17;

(*l*) the procedure, form and information under the second proviso to sub-section (*1*) of section 17;

(*m*) the fees for application under sub-section (*3*) of section 17;

(*n*) the manner for grant of certificate of registration to the applicant under sub-section (*8*) of section 18;

(*o*) the form of application and fees under sub-section (*2*) of section 19;

(*p*) the form of application and fees under sub-section (*1*) of section 20;

(*q*) the form of application and fees for amendment of certificate of registration under sub-section (*1*) of section 21;

(*r*) the manner of amendment of certificate of registration under sub-section (*3*) of section 21;

(*s*) the period for rectification of violation under sub-section (*6*) of section 22;

(*t*) the manner of making application for registration of the pesticides under sub-section (*2*) of section 23;

(*u*) the form and fees of appeal under sub-section (*2*) of section 24;

(*v*) the information to be contained in the national register of pesticides under section 26;

(*w*) the form of application and fees of licence under sub-section (*1*) of section 28;

(*x*) the qualifications of a person making an application and requirements related to infrastructure, premises, storage and transport under sub-section (*2*) of section 28;

(*y*) the manner of providing monthly report under sub-section (*1*) of section 32;

(*z*) the manner of sending report by the State Government to the Central Government under sub-section (*2*) of section 32;

(*za*) the manner of maintaining record of sale of pesticide and submission of record to the Licencing Officer under sub-section (*3*) of section 32;

(*zb*) the manner of maintaining register recording the stock position of pesticides under sub-section (*4*) of section 32;

(*zc*) the quantum and procedure of *ex gratia* payment under sub-section (*6*) of section 34;

(*zd*) the information contained in the digital form under section 36;

(*ze*) the standards to be complied under sub-section (*3*) of section 38;

(*zf*) the technical and the other qualifications of a Pesticide Analyst under sub-section (*1*) of section 39;

(*zg*) the technical and other qualifications of a Pesticide Inspector under sub-section (*2*) of section 39;

(*zh*) the manner for sending samples for test and analysis to the Pesticide Analyst under clause (*d*) of sub-section (*1*) of section 40;

(*zi*) the manner of serving of notice to show cause under sub-section (*3*) of section 40;

(*zj*) the form of receipt under sub-section (*7*) of section 41;

(*zk*) the manner of intimation the purpose of taking sample of pesticide under sub-section (*8*) of section 41;

(*zl*) the number of portions weight or volume of the sample under sub-section (*9*) of section 41;

(*zm*) the manner of sealing and marking of the containers under sub-section (*10*) of section 41;

(*zn*) the manner of dealing with the portions of samples by the Pesticide Inspector under sub-section (*12*) of section 41;

(*zo*) the manner of delivering the signed report in quadruplicate under sub-section (*1*) of section 42;

(*zp*) the manner of disposal of remains of samples drawn and tested under sub-section (*6*) of section 42;

(*zq*) the manner of disposal of expired pesticide under sub-section (*2*) of section 45;

(*zr*) the time for intimation of consent or refusal for institution of the prosecution under sub-section (*1*) of section 53;

(*zs*) the manner of regulation of substances not intended for use as pesticides under sub-section (*1*) of section 55;

(*zt*) the period and manner of segregation and disposal of the pesticide under sub-section (*2*) of section 55;

(*zu*) the power and functions of authority and the manner to regulate the prices of pesticides under section 57;

(*zv*) any other matter which is required to be, or may be, prescribed.

(*2*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of the Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Governments to make rules.

63. (*1*) The State Government may, after consultation with the Board and subject to the condition of previous publication make rules for carrying out the provisions of this Act and not inconsistent with the rules, if any, made by the Central Government.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the qualifications of Licencing Officer under sub-section (*1*) of section 27;

(*b*) the powers and function of Licencing Officer under sub-section (*2*) of section 27;

(*c*) the qualifications of a person under sub-section (*4*) of section 29;

(*d*) the terms and conditions for amendment of licence under sub-section (*1*) of section 30;

(*e*) the form and fees of appeal under sub-section (*1*) of section 33;

(*f*) the technical and other qualifications of the Pesticides Analyst under sub-section (*1*) of section 39;

(*g*) the technical and other qualifications of the Pesticides Inspector under sub-section (*2*) of section 39;

(*h*) any other matter which may be, or is required to be prescribed.

(2) Every rule made by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to remove difficulties.

64. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, make such provisions not inconsistent with the provisions of this Act as it may appear to be necessary, for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Repeal and saving.

46 of 1968.

65. (*1*) The Insecticides Act, 1968, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Insecticides Act, 1968 (the Act) was enacted to regulate the import, manufacture, sale, transport, distribution and use of insecticides with a view to prevent risk to human beings or animals. In the said Act, there is a lack of sufficient deterrence against violations and there is no stricter penalty to safeguard the farmers interest. There is also no mechanism to regulate pricing and disposal in an environmentally sound manner. Further, the Act is more than fifty years old and its provisions are inadequate to meet the multi-dimensional management and administration of pesticides in present times. It is also important to align India's obligations with various International forums.

2. In view of the above, stricter penalties are required for safeguarding the interest of farmers, which is jeopardised by the rampant availability of the pesticides which are of dubious and deceptive identity, composition and source. Representation of farmers and greater participation of States in formulation of technical standards for holistic management of pesticides is required. It is also pertinent to strike a balance amongst all stakeholders' aspirations.

3. In this background, a need was felt to bring a new legislation providing for better management of pesticides. With this in view, it is proposed to replace the Insecticides Act, 1968 by a new legislation, namely, the Pesticide Management Bill, 2020.

4. The proposed Bill, *inter alia*, provides for the following, namely:—

(*i*) to ensure transperancy and effective implementation of the provisions of the proposed legislation and also to enable the Central Government to make rules relating to the manner in which the powers and functions of the Registration Committee would be exercised;

(*ii*) provision has been made for encouraging indigenous manufacturing;

(*iii*) provision has also been made for promoting pesticides that are biological and based on traditional knowledge;

(*iv*) while registering a pesticide, the Registration Committee apart from evaluating its safety and efficacy, would also be guided by factors like necessity, end use, risk involved and availability of safer alternatives;

(*v*) fixation of maximum residue limits for pesticides have been made mandatory;

(*vi*) provision has been made for review, suspension and cancellation of registration and ban on pesticides;

(*vii*) the State Governments may prescribe qualifications for Licencing Officer, Pesticide Inspector and Pesticide Analyst to be appointed by them;

(*viii*) provision has been made to constitute an authority to exercise such powers and perform such functions relating to regulating the price of pesticides;

(*ix*) provision has been made for deemed revocation of licences in case of cancellation of registration of a pesticide;

(*x*) the Central Government may, by notification, specify ordinary use pesticides in respect of which a licence to sell or stock will not be required;

(*xi*) empowering the Central Government and the State Governments to accredit private laboratories to carry out any or all functions of a Pesticide Testing Laboratory on compliance of prescribed standards;

(*xii*) offences have been categorised separately in terms of the degree of severity like 'punishment for obstruction', 'punishment on violations of conditions of registration and licensing', 'punishment for activities related to import and export of pesticides', 'punishment for activities involving unregistered and unlicensed pesticides',

'punishment for activities involving falsified pesticides','punishment for activities involving banned pesticides', 'punishment for causing hurt, grievous hurt or death', etc.;

(*xiii*) to deter the subsequent offences, a provision has been made for imposing a fine of not less than twice the fine that was imposed at the time of the first conviction, in case of subsequent offences, irrespective of the maximum fine provided for such offence;

(*xiv*) it has also been provided that if a person is convicted for third time or more for violations of conditions of registration and licencing, he shall be liable to imprisonment for a term extending up to one year;

(*xv*) provision has been made to empower the Central Government to constitute a fund, *inter alia,* for making *ex gratia* payments to persons or their legal heirs, as the case may be, who have suffered hurt, grievous hurt or have died in the course of poisoning due to occupational exposure to pesticide;

(*xvi*) to enable the Central Government to give directions to a State Government, the Central Pesticide Board and in case of exigency, to the Registration Committee for carrying out all or any of the provisions of the proposed legislation or rules made thereunder.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 15*th March,* 2020.

NARENDRA SINGH TOMAR.

Notes on clauses

Clause 1 of the Bill seeks to provide for short title and commencement of the Bill.

Clause 2 of the Bill seeks to provide for declaration of expediency of control by the Union of India.

Clause 3 of the Bill seeks to provide for the definition of the certain words and expressions used in various provisions of the Bill. These expressions, *inter alia*, include the expressions, 'label', 'pest', 'pesticide', 'poisoning', 'ordinary use pesticide', 'risk', 'technical grade pesticide', etc.

Clause 4 of the Bill seeks to provide for constitution of a Central Pesticide Board to carry out the functions assigned to it by or under this Act.

Clause 5 of the Bill seeks to provide for the composition, terms and conditions of office of the Members of the Board.

Clause 6 of the Bill seeks to provide for meetings of the Board specifying the time and place including quorum at such meetings. It further provides that the Central Government may request the Board to convene a meeting when its advice is required on a matter of immediate concern and provides for decision making process by voting.

Clause 7 of the Bill seeks to provide for constitution of committees and engagement of expert for efficient discharge of Boards functioning under this Bill.

Clause 8 of the Bill seeks to provide for powers and functions of the Board.

Clause 9 of the Bill seeks to provide for the constitution, composition and term of office of the Chairperson and Member of Registration Committee which shall consist of a Chairperson to be nominated by the Central Government and Member Secretary of the Central Pesticides Board as its Member Secretary and six other *ex officio* members. Further, it provides that the Registration Committee to co-opt such members of experts for such purpose or period as it may deem fit.

Clause 10 of the Bill seeks to provide for the restrictions on employment of Chairperson and Members of Board and Registration Committee. The Chairperson and Member of the Board or the Registration Committee, shall not, for a period of three years from the date on which they cease to be a Chairperson or a Member of the Board or the Registration Committee, as the case may be, without the previous approval of the Central Government, accept employment in, enter into a contract of service with, be connected with the management of or accept an appointment to the board of directors of an entity that is conducting business in any of the areas regarding which the Board or the Registration Committee conducts research and makes recommendations or advises the Central Government and State Governments.

Clause 11 of the Bill seeks to provide for various factors which will not invalidate proceedings of the Board and Registration Committee.

Clause 12 of the Bill seeks to provide for constitution of sub-committees and co-opting of experts, by the Registration Committee to perform such duties as may be delegated to them by the committee. It further providing that, any decision taken by such sub-committee must be submitted to the Registration Committee for ratification.

Clause 13 of the Bill seeks to provide for the procedure and the conduct of business to be transacted by the Registration Committee.

Clause 14 of the Bill seeks to provide for the powers and functions of the Registration Committee, which, *inter alia,* include the following, namely:—

(*i*) make decisions regarding the application for registration of pesticides;

(*ii*) specify conditions subject to which a certificate of registration is granted;

(*iii*) periodically review the safety and efficacy of registered pesticides and amend or cancel certificates of registration, review the registration of a pesticide, maintain a national register of pesticides, notify substances having pesticidal properties and perform such other functions prescribed by the Central Government.

Clause 15 of the Bill seeks to provide for Secretariat with technical and other staff as it considers necessary for Central Pesticides Board and Registration Committee.

Clause 16 of the Bill seeks to provide for requirement to register pesticides, wherein, any person desiring to import or manufacture any pesticide for ordinary use, use in agriculture, storage, industry, pest control operations or public health, shall make an application to the Registration Committee for a certificate of registration, and if a person desires to import or manufacture more than one pesticide, a separate application shall be made for each pesticide.

Clause 17 of the Bill seeks to provide for application for registration of pesticides, wherein, certificate of registration shall be in such form and shall contain such information prescribed by the Central Government. It further provides that different forms and information may be prescribed depending on whether the pesticide is proposed to be imported or manufactured, or to be used in India or outside, as well as the use for which the pesticide is intended. It also provides that for promoting pesticides that are biological and based on traditional knowledge and for encouraging indigenous manufacturing, simplified procedure, forms and information may be prescribed by the Central Government.

Clause 18 of the Bill seeks to provide for the decision regarding registration, wherein, the Registration Committee shall scrutinise an application, conduct an independent enquiry to verify the information submitted by the applicant, maintain an online database of all applications for registration received, evaluate the information submitted by the applicant and also be guided by factors like safety, efficacy, necessity, end-use of the pesticide, risk involved and the availability of safer alternatives to the pesticide. Further, the Registration Committee shall not register a pesticide, if the information submitted by the applicant for registration is false or misleading in any material particular, may refuse to register a pesticide if there is scientific uncertainty regarding its risks and benefits and there are threats of serious and irreversible damage to human health, other living organisms or the environment.

Clause 19 of the Bill seeks to provide for grant of certificate of registration to generic pesticides, wherein, the Registration Committee has granted a certificate of registration for a pesticide and if any other person, not being the holder of the original certificate of registration granted under section 18, and desiring to import or manufacture the same pesticide make an application to the Committee for a certificate of registration.

Clause 20 of the Bill seeks to provide for provisional certificate of registration pending observation. If any person, desiring to import or manufacture a pesticide that shall be introduced in India for the first time, make an application to the Registration Committee containing such information, in such form and accompanied by such fees prescribed by the Central Government. It further provides that, the Registration Committee may grant a provisional certificate of registration for a period not exceeding three years, pending observation during which the applicant shall generate the information necessary for the grant of a certificate of registration under section 18. It also provides that during the period for which a pesticide has been granted provisional registration, the distribution or sale of such pesticide shall not be permitted, except in the event of an exigency as decided by the Central Government on the recommendation of the Registration Committee. It also provides that on the expiry of the period of provisional registration or at any time before such period when the information referred to in sub-section (*2*) has been generated, the person to whom it has been granted shall make an application for a certificate of registration under section 17 if he desires to import or manufacture the pesticide.

Clause 21 of the Bill seeks to provide for amendment of certificate of registration, wherein, the holder of a certificate of registration, desiring to amend the certificate or any condition specified by the Registration Committee while granting the certificate, shall make

an application to the Committee in such form and accompanied by such fees prescribed by the Central Government. The amendment of a certificate of registration of a pesticide granted under section 18, shall have such effect on certificates of registration granted under section 19 in such manner as may be prescribed by the Central Government.

Clause 22 of the Bill seeks to provide for review, suspension and cancellation of registration and ban on pesticides and provides the details for all these activities in relation to the registrations granted. Wherein, holder of certificate of registration shall intimate the Registration Committee if there is any change in the information submitted to the Committee after the grant of registration, including information related to the safety or efficacy of the pesticide or the status of its registration, restriction or ban in other countries. The Registration Committee may, at any time, review a certificate of registration granted under section 18 or 19, the molecule or formulation of a pesticide in respect of which registration has been granted. While, conducting review, the Registration Committee shall give an opportunity of being heard to the holder of the certificate of registration and where the review is conducted on the basis of prohibition made under sub-section (*2*) of section 35, it shall consult the Central Government or State Government. The decision taken by the Registration Committee shall be recorded in writing and made available in the public domain.

Clause 23 of the Bill seeks to provide for registration under the Insecticides Act, 1968, wherein the insecticides registered under therein shall be deemed to be registered under the provisions of this Act for a maximum period of two years from the date of commencement of this Act. It further provides that before the expiry of the period, the holder of the certificate of registration of such insecticide shall make an application within six months from the commencement of this Act for registration of the pesticide, in such manner as may be prescribed by the Central Government.

Clause 24 of the Bill seeks to provide for appeal from a decision of the Registration Committee to the Central Government, which shall, after giving an opportunity of being heard to the appellant, dispose of the appeal within a period of six months from the date of completion of pleadings.

Clause 25 of the Bill seeks to provide for power of revision of the Central Government, wherein, the Central Government may, at any time, call for the record relating to any case in which the Registration Committee has given a decision under this Act and may pass any such order it thinks fit.

Clause 26 of the Bill seeks to provide for a National register of pesticides to be maintained by the Registration Committee in digital form containing such information as may be prescribed by the Central Government.

Clause 27 of the Bill seeks to provide for appointment of Licensing Officer by the State Government, having such qualifications and exercise such powers and functions as may be prescribed by the State Government.

Clause 28 of the Bill seeks to provide for the requirement to obtain licence. Any person, desiring to manufacture, distribute, exhibit for sale, sell or stock pesticides or undertake pest control operations, shall make an application in such form and with such fee as may be prescribed by the Central Government to the Licensing Officer for the grant of a licence. The Central Government may, by notification specify the ordinary use pesticide in respect of which a licence to sell or stock under this Act is not required.

Clause 29 of the Bill seeks to provide for grant of licence. Wherein, the Licensing Officer, on the basis of the inspection and after evaluating the requirements under sub-section (*2*) of section 28, is satisfied that the conditions for the grant of a licence have been met, he may within a period of ninety days from the date of receipt of application under section 28, grant a licence to the applicant on such terms and conditions specified therein.

Clause 30 of the Bill seeks to provide for amendment and revocation of licence. The Licensing Officer may amend the terms or conditions of a licence, if the information on the

basis of which the licence was granted was false or misleading in any material particular or the holder of the licence has violated the conditions subject to which it was granted or the holder of the licence has contravened any of the provisions of this Act or rules made thereunder.

Clause 31 of the Bill seeks to provide for licences granted under the Insecticides Act, 1968, which, shall remain in force for the period specified at the time of grant of such licence under that Act. It further provides that when a licence granted under the Insecticides Act, 1968, expires an application for grant of fresh licence shall be made in accordance with the provision of this Act.

Clause 32 of the Bill seeks to provide for information on licences, sales and stock position. The Licencing Officer shall provide a monthly report to the State Government and the State Government shall consolidate the report received and send it to the Central Government every six months in such manner as may be prescribed by the Central Government. It further provides that the person, who sells the pesticides, shall maintain the record of the sale of pesticide and submit the record to the Licencing Officer in such manner, as may be prescribed by the Central Government. Also, every importer or manufacturer shall maintain a register recording the stock position of pesticides as may be prescribed by the Central Government.

Clause 33 of the Bill seeks to provide for appeal from decision of Licensing Officer to the State Government. On receipt of an appeal, the State Government shall, after giving the appellant an opportunity of being heard, dispose of the appeal within a period of six months from the date of receipt of the appeal.

Clause 34 of the Bill seeks to provide for information related to poisoning. The State Government shall, by notification, require any person or class of persons to report all occurrences of poisoning within their cognizance to such officer as may be specified in the notification and shall review and analyse occurrences of poisoning within its jurisdiction and submit a quarterly report to the Central Government. The Central Government shall constitute a fund, to make *ex gratia* payment to persons or their legal heirs, as the case may be, who have suffered hurt, grievous hurt or have died in the course of poisoning. However, the quantum and procedure of *ex gratia* payment shall be such, as prescribed by the Central Government.

Clause 35 of the Bill seeks to provide for prohibition on pesticides in public interest and ban on pesticides. The Central Government or State Government may, at any time, make a reference to the Registration Committee to review the safety or efficacy of a molecule or formulation of a pesticide in respect of which registration has been granted and the provisions of section 22 shall apply *mutatis mutandis* to such review. The Registration Committee shall complete its review within a period not exceeding one year from the date of the publication of the notification. It further provides that if the information available to the Committee is not sufficient to enable it to make a decision within one year, this period may be extended by a further period not exceeding one hundred and eighty days. All certificates of registration granted in respect of a molecule or formulation of a pesticide banned, shall be deemed to be cancelled from the date of publication of the notification.

Clause 36 of the Bill seeks to provide for maintenance of State-level database on pesticides by the State Government in digital form containing such information, as may be prescribed by the Central Government.

Clause 37 of the Bill seeks to provide for establishment of a Central Pesticides Laboratory by the Central Government under the control of a Director to be appointed by the Central Government. The Central Government may, by notification, designate such other laboratory as it deems fit to perform such functions of a Central Pesticides Laboratory, as may be specified in the notification.

Clause 38 of the Bill seeks to provide for establishment of Pesticides Testing Laboratories by the Central Government or the State Government under the control of directors

to be appointed by the Central Government or the State Government, as the case may be. The functions of the Pesticide Testing Laboratories shall be carried out by such other public institutions as directed by the Central Government or the State Government. On compliance of the standards, the Central Government or the State Governments authorised in this behalf, may recognise private laboratories to carry out all or any of the functions of Pesticide Testing Laboratories, as may be prescribed by the Central Government.

Clause 39 of the Bill seeks to provide for appointment of Pesticide Analyst and Pesticide Inspector. Wherein, the Central Government or the State Governments may, by notification, appoint such person as Pesticide Analyst and Pesticide Inspector possessing such technical and other qualifications as may be prescribed by the Central Government or the State Government, as the case may be, and shall exercise powers and perform duties in respect of such areas, as may be specified in the notification.

Clause 40 of the Bill seeks to provide for powers of a Pesticides Inspector. Such powers may, *inter alia* provide for:—

(*a*) enter and search any premises in which he has reason to believe that an offence under the provisions of the Act or rules made thereunder and take samples of any pesticide which is being manufactured, sold, stocked, exhibited, offered for sale or distributed;

(*b*) production of and to inspect, examine and record, register, document from the manufacturer, distributor, carrier, dealer, importer, vendor, pest control operator or any person and may seize the same;

(*c*) stop through an order in writing with the prior permission of Executive Magistrate, the distribution, sale, use of pesticide which is being distributed or sold or used in commercial pest control operation in contravention of the provisions of the Act or the rules for a specified period not exceeding sixty days.

Clause 41 of the Bill seeks to provide for the procedure to be followed by the Pesticide Inspector. If the Pesticide Inspector seizes any record, register, document or other material object or stock of a pesticide, he shall inform a Judicial Magistrate of such seizure, and take orders as to its custody. It also provides the manner of sampling by the Pesticides Inspector.

Clause 42 of the Bill seeks to provide that the Pesticide Analyst to whom a sample of any pesticide has been submitted for test or analysis, shall within a period of thirty days, deliver to the Pesticide Inspector, a signed report in quadruplicate in such manner as prescribed by the Central Government.

Clause 43 of the Bill seeks to provide for punishment for obstruction, in exercising of powers or discharging of duties by an officer under this Act or rules made thereunder which shall be punishable with a fine which shall not be less than twenty-five thousand rupees but which may extend to fifty thousand rupees.

Clause 44 of the Bill seeks to provide for punishment for violation of conditions of registration and licensing. It provides that whoever manufactures, imports, distributes, sells, exhibits for sale, stocks or transports a pesticide or undertake pest control operations in violation of the conditions of registration specified by the Registration Committee, or in violation of the conditions of the licence granted by the Licensing Officer, shall be punishable with a fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.

Clause 45 of the Bill seeks to provide for punishment for activities related to import and export of pesticides with a fine which shall not be less than five lakh rupees but which may extend to twenty lakh rupees or with imprisonment for a term which may extend to two years or with both.

Clause 46 of the Bill seeks to provide for punishment for activities involving unregistered and unlicenced pesticides with a fine which shall not be less than ten lakh

rupees but which may extend to forty lakh rupees or with imprisonment for a term which may extend to three years or with both.

Clause 47 of the Bill seeks to provide for punishment for activities involving falsified pesticides with a fine which shall not be less than ten lakh rupees but which may extend to forty lakh rupees or with imprisonment for a term which may extend to three years or with both.

Clause 48 of the Bill seeks to provide for punishment for activities involving banned pesticides, which shall be punishable with a fine which shall not be less than ten lakh rupees but which may extend to forty lakh rupees or with imprisonment for a term which may extend to three years or with both.

Clause 49 of the Bill seeks to provide for punishment for causing hurt, grievous hurt or death with a fine which shall not be less than five lakh rupees but may extend to fifteen lakh rupees; and in case of death punishable with a fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees or with imprisonment for a term which may extend to five years or with both.

Clause 50 of the Bill seeks to provide for punishment for subsequent offences. If any person, after having been previously convicted of an offence punishable under this Act, subsequently commits and is convicted of the same offence, he shall be liable to not less than twice the fine that was imposed at the time of the first conviction, irrespective of the maximum fine provided for such offence in this Act.

Clause 51 of the Bill seeks to provide for actions consequent to conviction of an offence under this Act. The stock of the batch of the pesticide in respect of which the contravention has been made shall be liable to be confiscated. On the directions of the court, the convicted person's name, place of residence, the offence and the penalty imposed may be published in newspapers.

Clause 52 of the Bill seeks to provide for offences by companies and the *explanation* related to company and director.

Clause 53 of the Bill seeks to provide for cognizance and trial of offences. It provides that prosecution under the Act shall not be instituted without the written consent of the State Government or a person authorised by it in this behalf. It also provides that any court inferior to that of metropolitan magistrate or a judicial magistrate of first class shall not try any offence under the Act.

Clause 54 of the Bill seeks to provide for defences to prosecution under this Act.

Clause 55 of the Bill seeks to provide for regulation of substances having pesticidal properties. It also provides that the Central Government may, on the recommendations of the Registration Committee and subject to such conditions as specified by notification, exempt such substances from all or any of the provisions of this Act or rules made thereunder.

Clause 56 of the Bill seeks to provide for exemption for educational, scientific or research purpose by organisation carrying out such activities and for person using pesticides in his own household, kitchen-garden or land under their own cultivation.

Clause 57 of the Bill seeks to provide for constitution of an authority by the Central Government and to exercise such powers and perform such functions to regulate the price of pesticides in such manner as prescribed by the Central Government.

Clause 58 of the Bill seeks to provide for the Central Government to give directions to a State Government or the Board and in exigency to the Registration Committee for carrying out all or any of the provisions of the Act and the State Government or the Board or the Registration Committee shall comply with such directions.

Clause 59 of the Bill seeks to provide for members and officers of the Board, the Registration Committee, the Licensing Officers, the Pesticide Analysts, the

Pesticide Inspectors or officers exercising the powers of the Pesticide Inspector, to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 60 of the Bill seeks to provide for protection to the Government, or any officer of the Government, or the Board, the Registration Committee, or any committee of the Board or any sub-committee of the Registration Committee for anything done in good faith or intended to be done under this Act.

Clause 61 of the Bill seeks to provide for claim of compensation from a manufacturer or distributor or stockist or retailer or pest control operator, as the case may be, under the provisions of the Consumer Protection Act, 1986, for any loss or injury in respect of pesticide.

Clause 62 of the Bill seeks to provide for the Central Government to make rules, after consultation with the Board and subject to the condition of previous publication by notification for carrying out the provisions of this Act. Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament.

Clause 63 of the Bill seeks to provide for the State Government to make rules after consultation with the Board and subject to the condition of previous publication for carrying out the provisions of this Act. Every rule made by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Clause 64 of the Bill seeks to provide for the Central Government to remove difficulties by an order, published in the Official Gazette not inconsistent with the provisions of the Act, for removing any difficulty which may have arisen in giving effect to the provisions of the Act within a period of three years from the commencement of this Act. Every such order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 65 of the Bill seeks to provide for repeal of the Insecticides Act, 1968, and further provides anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to provide for constitution of a Central Pesticides Board to advise the Central Government and the State Governments on scientific and technical matters arising out of the administration of the Bill.

Item (*e*) of sub-clause (*1*) of clause 5 of the Bill seeks to provide two representatives of Farmers of whom at least one shall be female to be nominated by the Central Government as members of the Board.

Sub-clause (*1*) of clause 7 of the Bill seeks to provide for constitution of committees and appointment of persons to such committees.

Sub-clauses (*3*) and (*4*) of clause 7 of the Bill seeks to provide for allowances of the Members of Committees of the Board, consultants, experts, advisors or other persons.

Item (*d*) of sub-clause (*1*) of clause 8 of the Bill seeks to provide Board to commission research on the development and availability of Safer alternatives to existing pesticides including agro-ecological practices. The Safer efficacy and toxicity of registered pesticides; best practice of pesticide regulation in other countries which may be adopted for parts or the whole of India.

Clause 9 of the Bill seeks to provide for constitution of a Registration Committee to carry out the functions assigned to it, or by under this Bill.

Sub-clause (*1*) of clause 15 of the Bill seeks to provide that the Central Government shall provide the Board and the Registration Committee with such technical and other staff as it consider necessary.

Sub-clause (*4*) of clause 34 of the Bill seeks to provide for the constitution of a fund to:— (*a*) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf provide; and (*b*) penalties imposed by a court for the contravention of any of the provisions of this Bill.

Sub-clause (*1*) of clause 37 of the Bill seeks to establish a Central Pesticides Laboratory to carry out the functions entrusted to it by or under the Bill.

Sub-clause (*1*) of clause 38 of the Bill seeks to provide for establishment of Pesticide Testing Laboratories by the Central or the State Governments.

Clause 39 of the Bill seeks to provide for appointment of Pesticide Inspector and Pesticide Analysts to exercise the powers entrusted to them by or under the Bill.

Clause 57 of the Bill seeks to provide for constitution of an authority to exercise such powers and perform such functions to regulate the price of pesticides.

2. Presently, a Central Insecticides Board and the Registration Committee constituted under the provisions of the Insecticides Act, 1968 (which is being repealed by the present Bill), is in operation. Funds are allocated by Department of Agriculture, Cooperation and Farmers Welfare for the Central Sector Scheme 'Sub Mission on Plant Protection and Plant Quarantine (SMPPQ)'. Out of the allotted amount for SMPPQ, an amount of Rs. 35.25 crore have been allocated for the financial year 2018-2019 and Rs. 45.00 crore for the financial year 2019-2020, and utilised for the purposes of the administration of the Insecticides Act, 1968. The expenditure for the proposed Pesticide Management Bill, 2020 shall be primarily met out of the budgetary provisions for the administration of the Insecticides Act, 1968, which will be repealed with the passage of the present Bill.

3. The additional funds, if required, for the purpose would be provided through support from within the existing allocations of the Department of Agriculture and Farmers Welfare.

4. The Bill does not involve any other expenditure recurring or non-recurring in nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 62 of the Bill empowers the Central Government to make rules, after consultation with the Board and subject to the condition of previous publication of the notification, for carrying out the provisions of the Bill. Such rules may, *inter alia* provide for:—

(*a*) the terms and conditions of the Members nominated under sub-section (2) of section 5;

(*b*) the allowances of the Members of the Committee under sub-section (3) of section 7;

(*c*) the term and conditions and such allowances of consultant, experts, advisers or other persons under sub-section (4) of section 7;

(*d*) other matters under sub-clause (viii) of clause (b) of section 8;

(*e*) the other functions under clause (h) of sub-section (1) of section 8;

(*f*) the qualification and experience of the Chairperson of the Registration Committee under clause (a) of sub-section (2) of section 9;

(*g*) the terms of the office of the Chairperson of the committee under sub-section (3) of section 9;

(*h*) other functions of the Registration Committee under clause (*g*) of section 14;

(*i*) the term and condition of the technical and other staff under sub-section (2) of section 15;

(*j*) the form and information under sub-section (1) of section 17;

(*k*) the different form and information under the first proviso to sub-section (1) of section 17;

(*l*) the procedure, form and information under the second proviso to sub-section (1) of section 17;

(*m*) the fees for application under sub-section (3) of section 17;

(*n*) the manner for grant of certificate of registration to the applicant under sub-section (*8*) of section 18;

(*o*) the form of application and fees under sub-section (2) of section 19;

(*p*) the form of application and fees under sub-section (1) of section 20;

(*q*) the form of application and fees for amendment of certificate of registration under sub-section (1) of section 21;

(*r*) the manner of amendment of certificate of registration under sub-section (3) of section 21;

(*s*) the period for rectification of violation under sub-section (6) of section 22;

(*t*) the manner of making application for registration of the pesticides under sub-section (2) of section 23;

(*u*) the form and fees of appeal under sub-section (2) of section 24;

(*v*) the information to be contained in the National register of pesticides under section 26;

(*w*) the form of application and fees of licence under sub-section (1) of section 28;

(*x*) the qualifications of a person making an application and requirements related to infrastructure, premises, storage and transport under sub-section (2) of section 28;

(*y*) the manner of monthly report by licensing officer to the State Government under sub-section (1) of section 32;

(*z*) the manner of sending report by the State Government to the Central Government under sub-section (2) of section 32;

(*za*) the manner of maintaining record of sale of pesticide and submission of record to the Licencing Officer under sub-section (3) of section 32;

(*zb*) the manner of maintaining register recording the stock position of pesticides under sub-section (4) of section 32;

(*zc*) the quantum and procedure of *ex gratia* payment under sub-section (6) of section 34;

(*zd*) the information contained in the digital form under section 36;

(*ze*) the standards to be complied under sub-section (3) of section 38;

(*zf*) the technical and other qualifications of a Pesticide Analyst under sub-section (1) of section 39;

(*zg*) the technical and other qualifications of a Pesticide Inspector under sub-section (2) of section 39;

(*zh*) the manner for sending samples for test and analysis to the Pesticide Analyst under clause (d) of sub-section (1) of section 40;

(*zi*) the manner of serving of notice to show cause under sub-section (3) of section 40;

(*zj*) the form of receipt under sub-section (7) of section 41;

(*zk*) the manner of taking sample of pesticide under sub-section (8) of section 41;

(*zl*) the number of portions, weight or volume of the sample under sub-section (9) of section 41;

(*zm*) the manner of sealing and marking of the containers under sub-section (10) of section 41;

(*zn*) the manner of dealing with the portions of samples by the Pesticide Inspector under sub-section (12) of section 41;

(*zo*) the manner of delivering the signed report in quadruplicate under sub-section (1) of section 42;

(*zp*) the manner of disposal of remains of samples drawn and tested under sub-section (6) of section 42;

(*zq*) the manner of disposal of expired pesticide under sub-section (2) of section 45;

(*zr*) the time for intimation of consent or refusal for institution of the prosecution under sub-section (1) of section 53;

(*zs*) the manner of regulation of substances not intended for use as pesticides under sub-section (1) of section 55;

(*zt*) the period and manner of, segregation and disposal of the pesticide under sub-section (2) of section 55;

(*zu*) the power and functions of authority and the manner to regulate the prices of pesticides under section 57;

(*zv*) any other matter which is required to be, or may be prescribed.

2. Clause 63 of the Bill empowers the State Government after consultation with the Board and subject to the condition of previous publication to make rules for carrying out the provisions of this Bill. Such rules may, *inter alia,* provide for:—

(*a*) the qualifications of Licencing Officer under sub-section (1) of section 27;

(*b*) the powers and functions of Licencing Officer under sub-section (2) of section 27;

(*c*) the qualifications of a person under sub-section (4) of section 29;

(*d*) the conditions for amendment of licence under sub-section (1) of section 30;

(*e*) the form and fees of appeal under sub-section (1) of section 33;

(*f*) the technical and other qualifications of a Pesticide Analyst under sub-section (1) of section 39;

(*g*) the technical and other qualifications of a Pesticide Inspector under sub-section (2) of section 39;

(*h*) any other matter which may be, or is required to be prescribed.

3. The matters in respect of which rules may be made under the aforesaid provisions are matter of procedure and administrative details and it is not practical to provide for them in the Bill. The delegation of legislative power is, therefore, of a normal character.

DESH DEEPAK VERMA,
Secretary-General.

PUBLISHED BY THE SECRETARY-GENERAL, RAJYA SABHA, UNDER RULE 68 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE RAJYA SABHA AND UPLOADED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI–110002

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MGIPMRND—6289GI(S3)—24-03-2020.